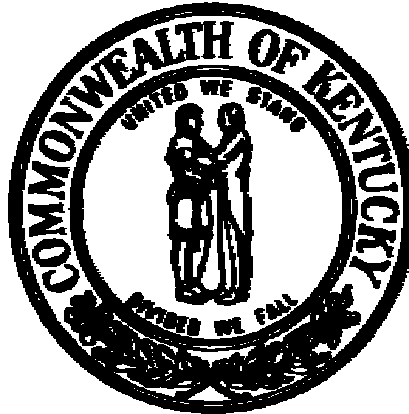


LAWS AND REGULATIONS RELATING TO

The Practice of Social Work



Published By
The Kentucky Board of Social Work
P. O. Box 1360
Frankfort, Kentucky 40602
(502) 564-3296

<http://www.state.ky.us/agencies/finance/occupations/socialwork/index.htm>

December, 2002
Edition

The statutes and regulations provided in this booklet are an *unofficial* version of the Kentucky Revised Statutes and Kentucky Administrative Regulations and are intended for informational purposes only. The official or certified versions of the Kentucky Revised Statutes and Kentucky Administrative Regulations should be consulted for all matters requiring reliance on the statutory text.

Contents

Kentucky Revised Statutes

335.010. Purpose - Exemptions.	3
335.020. Definitions.....	3
335.030. Practice without license prohibited - Use of titles.	4
335.040. Other professions exempt.....	4
335.050. Board - Creation - Membership - Meetings.	4
335.060. Compensations for board members.....	4
335.070. Powers and duties of board.	5
335.080. License, certified social worker - Requirements - Issuance.....	5
335.090. License, licensed social worker - Requirements - Issuance.....	6
335.100. License, licensed clinical social worker - Requirements - Issuance.	6
335.120. Licensure without examination - Reciprocal agreement between states.	7
335.130. License renewal - Fees - Waiver.....	7
335.140. Disposition of fees and other charges.....	7
335.150. Grievance procedures - Denial, revocation, or suspension of licenses - Other sanctions - Reconsideration.....	7
335.155. Administrative hearing prior to sanctions - Appeals.	8
335.160. Board to enjoin violations.....	9
335.990. Penalties.....	9

Kentucky Administrative Regulations

201 KAR 23:015. Temporary permission to practice.	10
201 KAR 23:020. Fees.....	10
201 KAR 23:050. Termination of license, reinstatement.	11
201 KAR 23:060. Licensed social workers, certified social workers, and licensed clinical social workers.	11
201 KAR 23:070. Qualifying education and qualifying experience under supervision.....	12
201 KAR 23:075. Continuing Education.	15
201 KAR 23:080. Code of ethical conduct.....	19
201 KAR 23:120. Equivalency standard.....	24
201 KAR 23:130. Definition of field service office.	25
201 KAR 23:140. Per diem compensation for board members.....	25

Other Statutes Pertinent to the Practice of Social Work

13B.050. Notice of administrative hearing.....	26
13B.080. Conduct of hearing.....	26
13B.090. Findings of fact - Evidence - Recording of hearing- Burdens of proof.....	27
202A.400. Duty of qualified mental health professional to warn intended victim of patient's threat of violence.....	28
209.030. Rules and regulations - Reports - Cabinet actions.....	29
214.615. Required educational course on transmission, control, treatment, and prevention of AIDS.....	30
620.030. Duty to report dependence, neglect or abuse.....	30
645.270. Duty of qualified mental health professional to warn intended victim of patient's threat of violence.....	31
Rule 507 Psychotherapist - patient privilege.....	32

Kentucky Revised Statutes

335.010 Purposes -- Exemptions.

(1) It is the purpose and policy of the Commonwealth of Kentucky to protect the public from being misled by incompetent and unauthorized persons, and from unprofessional conduct on the part of qualified social workers by providing regulatory authority over persons who hold themselves out to the public as social workers.

(2) The purpose of KRS 335.010 to 335.160 and KRS 335.990 is to promote high standards of professional performance for those engaged in the profession of social work by regulating the title, and by setting standards of qualification, training, and experience for those who seek to engage in the practice of social work.

(3) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall be applicable to employees of the State Department of Education or local boards of education who meet the certification requirements in the area of social work as established, or which may be established, by the Kentucky Board of Education. Nor shall anything in KRS 335.010 to 335.160 and KRS 335.990 be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, or experience of those who seek to engage in the practice of social work and who have been, or will be, certified by the Kentucky Board of Education for the position for which they have been employed.

(4) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by the Commonwealth of Kentucky, the director or administrative head of a social service agency or division of a city, county or urban-county government, or applicants for such employment to be licensed.

(5) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by church-related or church-operated or affiliated agencies, childrens' homes, neighborhood centers, or other philanthropic and nonprofit field service offices to be licensed. The provisions of KRS 335.010 to 335.160 and KRS 335.990 shall not be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, and experience of those engaged as employees of such entities in the practice of social work or applied social counseling.

335.020 Definitions.

As used in KRS 335.010 to 335.160 and 335.990, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Social Work.

(2) "The practice of social work" means the professional activity of helping for remuneration individuals, groups, or communities enhance or restore their capacity for social functioning and create societal conditions favorable to this goal. It includes the professional application of social work values, principles, and techniques to one or more of the following ends: counseling and non-medical psychotherapy with individuals, families, and groups; helping people obtain tangible services; assisting communities or groups provide or improve social and health services; and engaging in social work education, research, planning, and the appropriate administration of social work or social welfare services.

335.030 Practice without license prohibited -- Use of titles.

No person shall engage in the practice of social work unless he is licensed in accordance with the provisions of KRS 335.010 to 335.160 and 335.990, and no person shall hold himself out to the public by any title or description of services representing himself as a "Certified Social Worker," "Licensed Social Worker," "Licensed Clinical Social Worker," or any other title that includes such words except as such usage of title or description is authorized by KRS 335.010 to 335.160 and 335.990.

335.040 Other professions exempt.

Nothing contained in KRS 335.010 to 335.160 and 335.990 shall be construed to prevent qualified members of other recognized professions from doing work within the standards and ethics of their respective professions provided they do not hold themselves out to the public by any title or description of services as being engaged in the practice of social work.

335.050 Board -- Creation -- Membership -- Meetings.

(1) There is hereby created the Kentucky Board of Social Work, consisting of seven (7) members appointed by the Governor. One (1) member shall be a certified social worker under the provisions of KRS 335.010 to 335.160 and 335.990. One (1) member shall be a licensed social worker under the provisions of KRS 335.010 to 335.160 and 335.990. One (1) member shall be a licensed clinical social worker licensed under the provisions of KRS 335.010 to 335.160 and 335.990. Three (3) members shall be persons licensed by the board at any level, at the discretion of the Governor. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. With the exception of the citizen at large, each member shall be appointed from a list of names of qualified persons submitted by any interested parties. The Governor may request the submission of additional names.

(2) Members of the board shall be appointed for terms of four (4) years except appointments to fill vacancies caused by a reason other than the expiration of a member's term. Upon recommendation of the board, made after notice and hearing, the Governor may remove any member of the board for incompetence, neglect of duty, or malfeasance in office.

(3) All vacancies shall be filled by the Governor.

(4) The board shall organize upon appointment and qualification of its members, and shall elect annually from its membership a chairman, vice chairman, and a secretary. The board shall meet as frequently as it deems necessary, but not less than two (2) times each year, at such times and places as the board designates. Additional meetings may be held upon call of the chairman or upon the written request of three (3) members of the board. Four (4) members of the board shall constitute a quorum.

(5) The board may be attached, for administrative purposes, to the Division of Occupations and Professions in the Finance and Administration Cabinet pursuant to the provisions of KRS 42.066.

335.060 Compensation for board members.

The members of the board shall receive per diem compensation, not to exceed one hundred twenty-five dollars (\$125), to be established by administrative regulation promulgated by the board. Members may be reimbursed for their reasonable necessary expenses incurred in the performance of their duties. Reimbursement shall not be made if available funds are insufficient for this purpose.

335.070 Powers and duties of board.

(1) The board shall administer and enforce the provisions of KRS 335.010 to 335.160 and KRS 335.990, and shall evaluate and approve the qualifications of applicants for licensure.

(2) The board may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provision of KRS 335.010 to 335.160 and KRS 335.990.

(3) The board may promulgate administrative regulations pursuant to KRS Chapter 13A to carry out the provisions of KRS 335.010 to 335.160 and KRS 335.990.

(4) The board may conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the functions of KRS 335.010 to 335.160 and KRS 335.990.

(5) The board may employ any other persons it deems necessary to carry on the work of the board, and shall define their duties and fix their compensation.

(6) The board may renew licenses and require continuing education as a condition for license renewals.

(7) The board may revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; impose administrative fines; issue written reprimands and admonishments; or any combination of actions regarding licenses and licensees.

(8) The board may seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of social work by unlicensed persons.

(9) The board may establish, by promulgation of administrative regulations, the requirements for temporary permits to practice social work.

(10) The board may enter into agreements with any organization for the creation and implementation of a social work impairment program, as specified in the agreement.

335.080 License, certified social worker -- Requirements -- Issuance.

(1) The board shall issue a license as "certified social worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) Has received a master's degree or doctorate degree in social work from an educational institution approved by the board;

(d) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding six (6) months failed to pass an examination given by the board;

(g) Has paid an initial license fee established by the board by promulgation of an administrative regulation; and

(h) Has complied with KRS 214.615(1).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

(3) A certified social worker may engage in the practice of clinical social work by contracting, in writing, with a licensed clinical social worker who shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of administrative regulations. The certified social worker shall,

for purposes of this section, be an employee of an institution or organization in which the certified social worker has no direct or indirect interest other than employment. No certified social worker shall enter into a practice of clinical social work until this contract has been approved by the board, and shall cease the practice of clinical social work immediately upon the termination of the contract. At the termination of the contract, the certified social worker shall apply for licensure as a licensed clinical social worker or request an extension of the contract from the board.

335.090 License, licensed social worker -- Requirements -- Issuance.

(1) The board shall issue a license as "licensed social worker" to an applicant who meets the following requirements:

- (a) Is at least eighteen (18) years of age;
- (b) Is a person of good moral character;
- (c) 1. Has received a baccalaureate degree in a social work or social welfare program accredited by the Council on Social Work Education; or
2. Has received a baccalaureate degree and has completed courses equivalent to a social work or social welfare program as determined by the board;
- (d) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;
- (e) Has passed an examination prepared by the board;
- (f) Has not within the preceding six (6) months failed to pass an examination given by the board;
- (g) Has paid an initial license fee established by the board by promulgation of an administrative regulation; and
- (h) Has complied with KRS 214.615(1).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

335.100 License, licensed clinical social worker -- Requirements -- Issuance.

(1) The board shall issue a license as "licensed clinical social worker" to an applicant who meets the following requirements:

- (a) Has received a master's degree or doctoral degree in social work from an educational institution approved by the board;
- (b) Has had a minimum of two (2) years of full time post-master's experience, consisting of at least thirty (30) hours per week, or three (3) years of part time, consisting of at least twenty (20) hours per week, post-master's degree experience acceptable to the board in the use of specialty methods and measures to be employed in clinical social work practice, the experience having been acquired under appropriate supervision as established by the board by promulgation of an administrative regulation;
- (c) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;
- (d) Has passed an examination prepared by the board for this purpose;
- (e) Has not within the preceding six (6) months failed to pass an examination given by the board;
- (f) Has paid an initial license fee established by the board by promulgation of an administrative regulation; and
- (g) Has complied with KRS 214.615(1).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and KRS 335.990.

(3) A licensed clinical social worker may contract with a certified social worker in the practice of clinical social work as provided in KRS 335.080(3). The licensed clinical social worker shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of administrative regulations.

335.120 Licensure without examination -- Reciprocal agreement between states.

The board may grant the appropriate license without examination to any person who at the time of application holds a valid license from another state and who meets the current minimum requirements for licensure in Kentucky provided a reciprocal agreement exists between the states.

335.130 License renewal -- Fees -- Waiver.

(1) Each certified social worker, licensed social worker and licensed clinical social worker shall renew his license every three (3) years, and shall pay the board a renewal fee as established by the board by promulgation of an administrative regulation.

(2) Licensees whose licenses are renewed by the board shall be issued a renewal license.

(3) Renewal fees shall be waived for any licensee actually serving in the Armed Forces of the United States. The waiver shall be effective for six (6) months following honorable discharge, separation, or release from the Armed Forces, after which period a license shall be considered lapsed.

(4) The board may, at its discretion, require continuing education as a condition of license renewal.

335.140 Disposition of fees and other charges.

All fees and other charges received by the board under KRS 335.010 to 335.160 and KRS 335.990 shall be deposited in the State Treasury and credited to a separate trust and agency account for the board. The moneys so deposited shall be used to finance the board, and are hereby appropriated to the board.

335.150 Grievance procedures -- Denial, revocation, or suspension of licenses -- Other sanctions -- Reconsideration.

(1) The board may revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; impose an administrative fine; issue a written reprimand or admonishment; or any combination of actions regarding any applicant, license, or licensee upon proof that the applicant or licensee has:

(a) Committed any act of dishonesty or corruption. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence creates a rebuttable presumption at the ensuing disciplinary hearing of the guilt of the applicant or licensee. Conviction includes all instances in which a plea of no contest is the basis of the conviction;

(b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the practice of social work;

(e) Violated any state statute or administrative regulation governing the practice of social work or any activities undertaken by a social worker;

(f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(g) Violated the code of ethical conduct as set forth by the board by promulgation of an administrative regulation;

(h) Been legally declared mentally incompetent;

(i) Aided or abetted another person in falsely procuring or attempting to procure a license;

(j) Aided or abetted an unlicensed person in the practice of social work; or

(k) Failed to comply with the requirements of KRS 214.615(1).

(2) Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board and is again able to engage competently in the practice of social work.

(3) If an alleged violation is not of a serious nature and the evidence presented to the board, after the investigation and appropriate opportunity for the licensee to respond, provides a clear indication that the alleged violation did in fact occur, the board may issue a written admonishment to the licensee. A copy of the admonishment shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response within thirty (30) days of its receipt and to have the response placed in the licensee's permanent file. Alternatively, the licensee may file a request for a hearing, within thirty (30) days of the receipt of the written admonishment. Upon receipt of this request, the board shall set aside the written admonishment and set the matter for hearing.

(4) At any time during the investigative or hearing processes, the board may enter into an agreed order with, or accept an assurance of voluntary compliance from, the licensee that effectively satisfies the complaint.

(5) The board may reconsider, modify, or reverse its decision regarding probation, suspension, or any other disciplinary action.

(6) Upon proof substantiating that sexual contact occurred between a social worker licensed by the board and a client while the client was under the care of or in a professional relationship with the social worker, the social worker's license may be revoked or suspended with mandatory treatment of the social worker as prescribed by the board. The board may require the social worker to pay a specified amount for mental health services for the client which are needed as a result of the sexual contact.

(7) The board may revoke the license of a social worker if the social worker has been convicted of a misdemeanor offense under KRS Chapter 510 involving a client or a felony offense under KRS Chapter 510, 530.064, or 531.310, or has been found to have had sexual contact as defined in KRS 510.010(7) with a client while the client was under the care of the social worker.

335.155 Administrative hearings prior to sanctions -- Appeals.

(1) Before revoking, suspending, imposing probationary or supervisory conditions upon, imposing an administrative fine, issuing a written reprimand, or any combination of these actions regarding any license or licensee under the provisions of KRS 335.010 to 335.160 and 335.990, the board shall set the matter for hearing as provided by KRS Chapter 13B.

(2) After denying an application, refusing to renew a license, or issuing a written admonishment regarding any applicant, license, or licensee under the provisions of KRS 335.010 to 335.160 and 335.990, the board shall set the matter for hearing upon written request filed by the applicant or licensee within thirty (30) days of the date of the letter advising of the denial, refusal, or admonishment.

(3) Any party aggrieved by a final order of the board may appeal to Franklin Circuit Court as provided by KRS Chapter 13B.

335.160 Board to enjoin violations.

If it appears to the board that a person is violating any provision of KRS 335.010 to 335.160 and KRS 335.990, the board may institute, in its own name, in Franklin Circuit Court, a proceeding to restrain and enjoin the violation without regard to whether proceedings have been, or may be instituted under other provisions of KRS 335.010 to 335.160 and KRS 335.990. The board or any member thereof, shall not be required to furnish bond for any costs or filing fees in connection with the proceeding.

335.990 Penalties.

Any person who violates or aids in the violation of any provision of KRS 335.010 to 335.160 shall upon conviction be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), or imprisoned for not more than six (6) months, or both.

Kentucky Administrative Regulations

201 KAR 23:015. Temporary permission to practice.

RELATES TO: KRS 335.080, 335.090, 335.100

STATUTORY AUTHORITY: KRS 335.070(1), (3), (9)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.070(1) authorizes the board to evaluate and approve the qualifications of applicants for licensure. KRS 335.070(3) authorizes the board to promulgate administrative regulations. KRS 335.070(9) authorizes the board to establish requirements for temporary permits to practice social work. This administrative regulation establishes the requirements for the granting of temporary permission to engage in the practice of social work.

Section 1. (1) A temporary permit to engage in the practice of social work may be granted to an applicant who has completed all of the requirements for licensure except the examination and has applied for licensure under the provisions of KRS 335.080, 335.090, or 335.100.

(2) A person practicing under a temporary permit as a certified social worker shall not:

(a) Engage in the practice of clinical social work under the provisions of KRS 335.080(3) or 335.100(3);

(b) Accumulate hours towards the supervision requirements of KRS 335.100(1)(b).

(3) The temporary permit shall allow the applicant to engage in the practice of nonclinical social work under the supervision of a person credentialed by the board at the same, or higher licensure level as that applied for by the applicant for the temporary permit.

(4) The request for a temporary permit shall be accompanied by a letter from the proposed supervisor acknowledging the responsibility for supervision and for the practice of the person holding the temporary permit.

(5) No licensee may serve as the supervisor for more than two (2) persons holding a temporary permit at any one (1) time.

(6) Supervision during the period of temporary permission to practice shall be a minimum of one (1) hour of individual, face-to-face supervision per week.

(7) The temporary permit shall be valid until the applicant for licensure is issued or denied licensure under the provisions of KRS 335.080, 335.090, or 335.100, but in no instance shall the temporary permit extend for more than sixty (60) days following the second examination offered after the applicant has applied for licensure.

(8) No more than one (1) temporary permit shall be granted for any applicant for licensure.

201 KAR 23:020. Fees.

RELATES TO: KRS 335.080(1)(d), (g), 335.090(1)(d), (g), 335.100(1)(c), (f), 335.130(1)

STATUTORY AUTHORITY: KRS 335.070(3), 335.080(1)(d), (g), 335.090(1)(d), (g), 335.100(1)(c), (f), 335.130(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.080(1)(d), 335.090(1)(d), and 335.100(1)(c) require the board to establish examination fees by promulgation of an administrative regulation. KRS 335.080(1)(g), 335.090(1)(g), and 335.100(1)(f) require the board to establish initial license fees by

promulgation of an administrative regulation. KRS 335.130(1) requires the board to establish renewal fees by promulgation of an administrative regulation. This administrative regulation establishes these examination, license, and renewal fees.

Section 1. The licensed clinical social worker examination fee shall be \$140.

Section 2. The certified social worker examination fee shall be \$140.

Section 3. The licensed social worker examination fee shall be \$140.

Section 4. The initial license fee and the renewal fee for a licensed clinical social worker license shall be \$150.

Section 5. The initial license fee and the renewal fee for a certified social worker license shall be seventy-five (75) dollars.

Section 6. The initial license fee and the renewal fee for a licensed social worker shall be fifty (50) dollars.

201 KAR 23:050. Termination of license, reinstatement.

RELATES TO: KRS 335.010 to 335.160, 335.990

STATUTORY AUTHORITY: KRS 335.070

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation clarifies the provisions of terminating the licenses of individuals who have failed to renew their licenses and sets forth the standard for reinstating an individual whose license has been terminated.

Section 1. A licensee may, within sixty (60) days following the dated expiration of his license, submit the required fees as set forth in KRS 335.130 and renewal application and have his license renewed.

Section 2. A licensee may continue to practice for sixty (60) days after the expiration of his license. Should a licensee reapply after sixty (60) days and before six (6) months, he shall pay a penalty of fifty (50) dollars. Should a licensee reapply after six (6) months and before twelve (12) months, he shall pay a penalty of \$100. Should a licensee reapply after twelve (12) months and before the end of eighteen (18) months he shall pay a penalty of \$200.

Section 3. Any licensee who shall not have renewed his license at the end of eighteen (18) months must submit a new application in accordance with existing requirements.

Section 4. Upon payment of penalty and payment of the renewal of license and/or certificate(s), the date of the license and/or certificate(s) shall be retroactive to the date of the immediately prior license and/or certificate(s) expired.

201 KAR 23:060. Licensed social workers, certified social workers, and licensed clinical social workers.

RELATES TO: KRS 335.030, 335.080, 335.090, 335.100

STATUTORY AUTHORITY: KRS 335.070(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.030 prohibits unlicensed social work practice and using social work titles except as authorized by law. KRS 335.080, 335.090, and 335.100 establish licensed social worker, certified social worker, and licensed clinical social worker licenses, and KRS 335.080(3) establishes the conditions in which a certified social worker may engage in the practice of clinical social work. This administrative regulation establishes the scope of practice for each license and the permissible use of license abbreviations.

Section 1. A person who possesses a valid, unsuspended or unrevoked licensed social worker license may:

(1) Engage in a social work activity except the practice of clinical social work as defined in 201 KAR 23:070, Section 1(2); and

(2) Use the abbreviation "LSW."

Section 2. A person who possesses a valid, unsuspended or unrevoked certified social worker license may:

(1) Engage in a social work activity that:

(a) Except as provided in paragraph (b) of this subsection, does not include the practice of clinical social work as defined in 201 KAR 23:070, Section 1(2); or

(b) Includes the practice of clinical social work as defined in 201 KAR 23:070, Section 1(2), if the conditions established in KRS 335.080(3) are met; and

(2) Use the abbreviation "CSW."

Section 3. A person who possesses a valid, unsuspended or unrevoked licensed clinical social worker license may:

(1) Engage in the practice of social work, including the practice of clinical social work as defined in 201 KAR 23:070, Section 1(2);

(2) Hold himself out to the public as engaging in the practice of clinical social work as defined in 201 KAR 23:070, Section 1(2);

(3) Use the abbreviation "LCSW"; and

(4) Employ a certified social worker under the conditions established in KRS 335.100(3).

201 KAR 23:070. Qualifying education and qualifying experience under supervision.

RELATES TO: 335.080(1)(c), (3), 335.100(1)(a), (b), (3)

STATUTORY AUTHORITY: KRS 335.070(3), 335.080(1)(c), (3), 335.100(1)(a), (b), (3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.080(1)(c) and 335.100(1)(a) require an applicant for a certified social worker license or a licensed clinical social worker license to have a master's degree or a doctoral degree in social work from an educational institution approved by the board. KRS 335.080(3) requires a certified social worker may engage in the practice of clinical social work under the supervision of a licensed clinical social worker as directed by the board by promulgation of an administrative regulation. KRS 335.100(1)(b) provides that an applicant for a licensed clinical social worker license to have acquired post-master's experience under appropriate supervision as established by the board by promulgation of an administrative regulation. KRS 335.100(3) provides that a licensed clinical social worker shall assume responsibility for and supervise the certified social worker's practice of clinical social work as directed by the board by promulgation of an administrative regulation. This administrative regulation establishes the educational institutions approved by the board, the definitions relating to supervision, the content of a supervisory contract, and the requirements of experience under supervision.

Section 1. Definitions. (1) "Educational institution approved by the board" means a graduate school of social work accredited by the Council on Social Work Education.

(2) "Practice of clinical social work" means the practice of social work which focuses on the evaluation, diagnosis, and treatment of an emotion disorder and mental illness as related to the total health of the individual and which meets the requirements of Section 2 of this administrative regulation.

(3) "Supervision" means the educational process of utilizing a partnership between a supervisor and a supervisee aimed at enhancing the professional development of the supervisee in providing clinical social work services.

(4) "Supervisor of record" means the supervisor who assumes responsibility for the practice of a certified social worker pursuant to KRS 335.080(3) and 335.100(3).

Section 2. Practice of Clinical Social Work. (1) The practice of clinical social work shall be based on knowledge of psychodynamics, human relations, crisis intervention, psychopathology, and group dynamics.

(2) A practitioner of clinical social work shall:

(a) Possess numerous skills, including skills necessary for:

1. Individual, marital, family, and group psychotherapy; and

2. Other treatment modalities;

(b) Establish a therapeutic relationship with his client which:

1. Leads to correction of the dysfunction;

2. Includes:

a. Diagnosis using professionally recognized clinical nomenclature, treatment planning which includes development, implementation, and modification of the plan;

b. Evaluation of progress; and

c. Termination of the treatment process; and

3. Is characterized by face-to-face contact with the client throughout the treatment process.

Section 3. Supervision. (1) A supervisor shall be a licensed clinical social worker who:

(a) Provides supervision to a certified social worker pursuant to KRS 335.080(3) and 335.100(3);

(b) Does not have:

1. An unresolved citation filed against him by the board;

2. A suspended or probated license; or

3. A previous or existing personal relationship with a supervisee; and

(c) Has:

1. Been in the practice of clinical social work for three (3) years following licensure as a licensed clinical social worker; and

2. By August 1, 2001, completed a board-approved three (3) hour training course on supervisory practices and methods for licensed clinical social workers. Supervisory experience obtained in Kentucky with a supervisor who has not completed the course required by this subsection shall not be approved by the board.

(2) A licensed clinical social worker shall not serve as a supervisor of record for more than six (6) certified social workers with whom he has a contract to be held accountable to the board at the same time.

(3) An applicant receiving supervision outside of Kentucky shall demonstrate that his or her supervisor has been in the practice of clinical social work for a period of three (3) years following licensure as a clinical social worker or its equivalent effective at the time of the supervision.

Section 4. Supervisory Contract. The supervisory contract required by KRS 335.080(3) and 335.100(3):

(1) The name and license number of the supervisee.

(2) The name and license number of the supervisor of record.

(3) The name and license number of other supervisors.

(4) The agency, institution, or organization where the experience will be received.

- (5) A detailed description of the nature of the practice including the type of:
 - (a) Clients which shall be seen;
 - (b) Therapies and treatment modalities which shall be used including the prospective length of treatment; and
 - (c) Problems which shall be treated.
- (6) The nature, duration, and frequency of the supervision, including the:
 - (a) Number of hours of supervision per week;
 - (b) Amount of group and individual supervision; and
 - (c) Methodology for transmission of case information.
- (7) The conditions or procedures for termination of the supervision.
- (8) A statement that:
 - (a) The supervisor of record understands that he shall be held accountable to the board for the care given to the supervisee's clients;
 - (b) The certified social worker is an employee of an agency, institution, or organization, and has Social Security and income tax deducted from his salary; and
 - (c) The supervisor of record and other supervisors meet the criteria established in Section 3 (1) and (2) of this administrative regulation.
- (9) An individualized job description which:
 - (a) Describes in detail how the requirements of Sections 6 and 7 of this administrative regulation shall be met; and
 - (b) Is on office or agency letterhead and is signed by the executive director, the agency director or the individual who heads the office.

Section 5. Notice to Client. If an employee is practicing under the supervision of a licensed clinical social worker, the employee shall notify in writing to each client during the period of the supervision. The notification shall contain:

- (1) The name, office address, telephone number, and license number of the supervisor of record; and
- (2) A statement that the employee is licensed by the board.

Section 6. Experience Under Supervision. Experience under supervision shall consist of:

- (1) At least sixty (60) percent of the required experience in a direct client-professional relationship;
- (2) Direct responsibility for a specific individual or group of clients; and
- (3) Broad exposure and opportunity for skill development with a variety of dysfunctions, diagnoses, acuity levels and population groups.

Section 7. Supervision Requirements. (1) Supervision shall relate specifically to the qualifying experience and shall focus on:

- (a) The accurate diagnosis of a client problem leading to proficiency in applying professionally recognized clinical nomenclature;
- (b) The development and modification of the treatment plan;
- (c) The development of treatment skills suitable to each phase of the therapeutic process;
- (d) Ethical problems in the practice of clinical social work; and
- (e) The development and use of the professional self in the therapeutic process.

(2) Supervision shall total a minimum of 200 hours, which shall include individual supervision of not less than two (2) hours during every two (2) weeks of clinical social work practice. More than 100 hours shall not be obtained through group supervision in groups of six (6) or fewer members.

Section 8. Evaluation by Board. (1) The period of supervised experience required by KRS 335.100(1)(b) shall be evaluated by the board according to one (1) of the following methods:

(a) Postexperience evaluation. A candidate whose experience was obtained while employed at an agency exempted under KRS 335.010(3), (4) or (5) or while licensed in another state shall submit his application along with appropriate documentation of supervision upon completion of the experience.

(b) Transitional evaluation. A candidate who has accumulated an amount less than the full amount of qualifying experience while employed at an agency exempted under KRS 335.010 (3), (4) or (5) or while licensed in another state, and who is seeking to obtain the remainder of his experience in nonexempt employment, shall submit his application along with appropriate documentation of supervision completed to the date of his application. He shall also submit with his application a contract under paragraph (c) of this subsection for the remainder of the experience.

(c) Preapproved evaluation. Candidates not otherwise exempted under KRS 335.010(3), (4) or (5) shall submit a contract for the experience which will be taking place over the required time period and have the contract approved by the board prior to beginning supervision. This contract shall be evaluated by the board and shall be approved or disapproved within ninety (90) days of its submission.

(2) A certified social worker who desires to practice clinical social work which does not qualify as supervised experience pursuant to KRS 335.100(1)(b), shall submit a contract pursuant to KRS 335.080(3). This contract shall be evaluated by the board and shall be approved or disapproved within ninety (90) days of its submission.

Section 9. (1) Changes to that portion of the supervisory contract which describes the nature of the practice and experience that the supervisee is to obtain as required by Section 4(5) of this administrative regulation shall be submitted to the board for approval.

(2) If the supervisee changes his supervisor of record, a new supervisory contract shall be submitted to the board for approval.

(3) A supervisee shall notify the board by letter of changes of supervisors who are not the supervisor of record, but who are identified in the supervisory contract pursuant to Section 4(3) of this administrative regulation.

Section 10. Incorporation by Reference. (1) Contract for Clinical Social Work Supervision, 7/2000 is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Social Work, Berry Hill, 700 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

201 KAR 23:075. Continuing education.

RELATES TO: KRS 335.130(4)

STATUTORY AUTHORITY: KRS 335.070(3), (6), 335.130(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.130(4) allows the board to require continuing education as a condition of license renewal. This administrative regulation delineates the requirements for continuing education and prescribes methods and standards for the accreditation of continuing education courses.

Section 1. Definitions. (1) "Academic courses offered by an accredited postsecondary institution" means a social work course, at the graduate level:

(a) Designated by a social work title or content; or

(b) An academic course, at the graduate level, relevant to social work.

(2) "Approved" means recognized by the Kentucky Board of Social Work.

(3) "Continuing education hour" means fifty (50) clock minutes of participating in continuing educational experiences.

(4) "Program" means an organized learning experience:

(a) Planned and evaluated to meet behavioral objectives; and

(b) Presented in one (1) session or series.

(5) "Provider" means an organization approved by the Kentucky Board of Social Work for providing continuing education programs.

(6) "Relevant" means having content applicable the practice of social work.

Section 2. Accrual and Computation of Continuing Education Hours. (1) A minimum of thirty (30) continuing education hours shall be accrued by each licensed clinical social worker and certified social worker holding licensure during the three (3) year period for renewal.

(2) A minimum of fifteen (15) continuing education hours shall be accrued by each licensed social worker holding licensure during the three (3) year period for renewal.

(3) All continuing education hours shall be in or relevant to the licensee's level of licensure.

(4) Three (3) continuing education hours during each renewal period shall be acquired in the area of the social work code of ethics as codified in 201 KAR 23:080.

(5) Every third renewal period, two (2) of the continuing education hours shall be on HIV/AIDS courses approved by the Cabinet for Health Services pursuant to 902 KAR 2:160.

(6) Academic credit equivalency for continuing education hours shall be based on one (1) credit hour equals fifteen (15) continuing education hours.

Section 3. Methods of Acquiring Continuing Education Hours. Continuing education hours applicable to the renewal of the license shall be directly related to the professional growth and development of the licensee. They may be earned by completing any of the following education activities:

(1) Programs not requiring board review and approval. An educational program from any of the following providers shall be deemed to be relevant to the practice of social work and shall be approved without further review by the board if it is:

(a) Sponsored or approved by:

1. The National Association of Social Workers or any of its affiliated state chapters; or

2. The Association of Social Work Boards.

(b) Sponsored by:

1. The National Federation of Clinical Social Workers or any of its affiliated state chapters;

2. The American Psychological Association or any of its affiliated state chapters;

3. The American Counseling Association or any of its affiliated state chapters;

4. The National Board for Certified Counselors or any of its affiliated state chapters; and

5. The American Psychiatric Association or any of its affiliated state chapters.

(c) An academic course offered by an accredited postsecondary institution directly related to social work, counseling, or psychology.

(2) Programs requiring board review and approval. A program from any of the following sources shall be reviewed and determined if it is relevant and therefore subsequently approved by the board.

(a) Relevant programs, including home study, distance learning or teleconference courses, and in-service training provided by other organizations, educational institutions, or other service providers approved by the board.

1. Board approval for home study, distance learning and teleconference courses shall be obtained each year unless the program does not require board approval under subsection (1) of this section.

2. The combined total number of hours for home study, distance learning or teleconference courses shall not exceed one-half (1/2) of the individual's continuing education hours.

3. Courses on the board's code ethics which are taken to meet the requirements of Section 2(4) of this administrative regulation shall be attended in person before a live presenter, and shall not be taken through home study, distance learning or teleconference courses.

(b) Relevant programs or academic courses presented by the licensee. A presenter of relevant programs or academic courses shall earn full continuing education credit for each contact hour of instruction, not to exceed one-half (1/2) of the continuing education renewal requirements. Credit shall not be issued for repeated instruction of the same course.

(c) Authoring an article in a relevant, professionally recognized or juried publication. Credit shall not be granted unless an article was published within the one (1) year period immediately preceding the renewal date. A licensee shall not earn more than one-half (1/2) of the continuing education hours required for renewal under the provisions of this subsection. More than one (1) publication shall not be counted during each renewal period.

Section 4. Procedures for Approval of Continuing Education Programs. A program, which is offered by an entity that is not a provider, may be used for continuing education if approval is secured from the board for the course. In order for the board to adequately review these programs, the following information shall be submitted:

(1) A published course outline or similar description which includes an explanation of the course objectives;

(2) Names and qualifications of the instructors presented in the form of curriculum vitas or resumes;

(3) Copies of the evaluation sheet or instrument by which the attendees can comment on the program, and the program agenda indicating hours of education, coffee and lunch breaks;

(4) Number of continuing education hours requested;

(5) Official certificate of completion or college transcript from the sponsoring agency or college; and

(6) Application for continuing education credits approval submitted on the Application for Continuing Education Credit Approval.

Section 5. Procedures for Preapproval of Continuing Education Sponsors and Programs. (1) Sponsor approval. Any entity seeking to obtain approval of a continuing education program prior to its offering shall:

(a) Apply to the board at least sixty (60) days in advance of the commencement of the program, and shall provide the information required in Section 4 of this administrative regulation.

(b) Provide proof to the board that the entity seeking this status:

1. Consistently offers programs which meet or exceed all the requirements set forth in subsection (2) of this section; and

2. Does not exclude any licensee from its programs.

(2) A continuing education activity shall be qualified for approval if the board determines the activity being presented:

- (a) Is relevant to the practice of social work;
- (b) Contributes to the professional competency of the licensee; and
- (c) Has competent instructors with appropriate academic training, professional licensures or certification, or professionally recognized experience.

(3) The provider shall specify whether it is requesting course approval to meet the requirements of Section 2(4) of this administrative regulation.

Section 6. Responsibilities and Reporting Requirements of Licensees. Each licensee shall be responsible for obtaining required continuing education hours. He shall identify his own continuing education needs, take the initiative in seeking continuing professional education activities to meet these needs, and seek ways to integrate new knowledge, skills and attitudes. Each person holding licensure shall:

- (1) Select approved activities by which to earn continuing education hours;
- (2) Submit to the board, when applicable, a request for continuing education activities requiring approval by the board as established in Section 4 of this administrative regulation;
- (3) Maintain the licensee's own records of continuing education hours;
- (4) At the time of renewal, list the continuing education hours obtained during that licensure renewal period;
- (5) Furnish documentation of attendance and participation in the appropriate number of continuing education hours at the time of his renewal, as follows:
 - (a) Each person holding licensure shall maintain, for a period of one (1) year from the date of renewal, all documentation verifying successful completion of continuing education hours;
 - (b) In each calendar year, up to fifteen (15) percent of all licensees shall be required by the board to furnish documentation of the completion of the appropriate number of continuing education hours for the current renewal period;
 - (c) Verification of continuing education hours shall not otherwise be reported to the board;
 - (d) Documentation sent in to the board prior to renewal shall be returned to the licensee by regular mail;
 - (e) Documentation shall take the form of official documents including:
 - 1. Transcripts;
 - 2. Certificates;
 - 3. Affidavits signed by instructors; or
 - 4. Receipts for fees paid to the sponsor; and
 - (f) Each licensee shall retain copies of his documentation.

Section 7. Responsibilities and Reporting Requirements of Providers and Sponsors. (1) Providers of continuing education not requiring board approval shall be responsible for providing documentation, as established in Section 6(5) of this administrative regulation, directly to the licensee.

(2) Sponsors of continuing education requiring board approval shall be responsible for submitting a course offering to the board for review and approval before listing or advertising that offering as approved by the board.

Section 8. Board to Approve Continuing Education Hours; Appeal when Approval Denied. In the event of denial, in whole or part, of any application for approval of continuing education hours, a licensee or a provider shall have the right to request reconsideration by the board of its decision. The request shall be in writing and

shall be received by the board within thirty (30) days after the date of the board's decision denying approval of continuing education hours.

Section 9. Waiver or Extensions of Continuing Education. (1) The board may, in individual cases involving medical disability, illness, or undue hardship as determined by the board, grant waivers of the minimum continuing education requirements or extensions of time within which to fulfill the requirements or make the required reports.

(2) A written request for waiver or extension of time involving medical disability or illness shall be submitted by the person holding licensure and shall be accompanied by a verifying document signed by a licensed physician.

(3) Waivers of the minimum continuing education requirements or extensions of time within which to fulfill the continuing education requirements may be granted by the board for a period of time not to exceed one (1) calendar year.

(4) If the medical disability or illness upon which a waiver or extension has been granted continues beyond the period of the waiver or extension, the person holding licensure shall reapply for the waiver or extension.

Section 10. Continuing Education Requirements for Reinstatement or Reactivation of Licensure. (1) A person requesting reinstatement or reactivation of licensure shall submit evidence of thirty (30) hours of continuing education within the thirty-six (36) month period immediately preceding the date on which the request for reinstatement or reactivation is submitted to the board.

(2) The person may request, and the board, at its discretion, may reinstate the licensure, with the provision that the person shall receive thirty (30) hours continuing education within six (6) months of the date on which the licensure is reinstated.

(3) The continuing education hours received in compliance with this section shall be in addition to the continuing education requirements established in Section 2 of this administrative regulation and shall not be used to comply with the requirements of that section.

Section 11. Incorporation by Reference. (1) "Application for Continuing Education Credit Approval", (6/02), Kentucky Board of Social Work, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Board of Licensure for Social Work, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

201 KAR 23:080. Code of ethical conduct.

RELATES TO: KRS 335.150(1)(g)

STATUTORY AUTHORITY: KRS 335.070(3), 335.150(1)(g)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.150(1)(g) provides that the board may take disciplinary action against an applicant or licensee who has violated the code of ethical conduct as set forth by the board by promulgation of an administrative regulation. This administrative regulation establishes the code of ethical conduct.

Section 1. Definitions. (1) "Client" means:

(a) An individual, family, or group who directly receives social work services from a social worker;

(b) A corporate entity or other organization if the contract is to provide a social work service of benefit directly to the corporate entity or organization; or

(c) A legal guardian who is responsible for making decisions relative to the provision of services for a minor or legally incompetent adult.

(2) A person identified as a client pursuant to subsection (1) of this definition shall be deemed to continue to be a client for a period of five (5) years following the last date of service rendered to the person.

(3) "Dual relationship" means a social, business, or personal relationship between a social worker and a client that coexists with the professional-client relationship between the social worker and the client.

Section 2. Client Relationships. (1) A legal guardian of a minor or legally incompetent adult shall be considered the client for the purpose of making decisions relative to the provision of services for the minor or legally incompetent adult.

(2) The minor or legally incompetent adult shall be considered the client for an issue that:

(a) Directly affects the physical or emotional safety of the individual, including a prohibited relationship; or

(b) Is specifically reserved to the individual and agreed to by the guardian prior to the rendering of the service.

(3) A client who directly receives the social work service shall be deemed to continue to be a client for a period of five (5) years following the last date of service actually rendered.

Section 3. Responsibility to Clients. (1) A social worker shall promote the well-being of a client and, if required by law, the safety and well-being of an individual whose life might be affected by the client's behavior or circumstance.

(2) A social worker shall not illegally discriminate against an individual.

(3) A social worker shall not provide a service outside his scope of practice as established in 201 KAR 23:060.

(4) A social worker shall notify a client of the regulatory authority of the board by displaying a written notice in public view in the social worker's office or service site. The notice shall contain the:

(a) Name of the social worker;

(b) Type of social work license;

(c) License number of the social worker; and

(d) Name, address, and telephone number of the board.

(5) A social worker shall confine his practice to a condition imposed upon his license by a state or federal authority and shall not practice as a social worker as defined in KRS 335.020 if his license has been suspended or revoked.

(6) A social worker shall provide a service to a client in a manner that is respectful and appreciative of the client's culture.

(7) A social worker shall not refer a client or delegate a service to a provider whom the social worker has reason to believe is not qualified to perform a professional service.

(8) A social worker shall provide a service to a client in the least restrictive mode of care.

Section 4. Informed Consent. (1) A social worker shall obtain informed consent from the client or his legal guardian in writing to provide a social work service. To obtain informed consent, a social worker shall inform the client of the following:

(a) The client's condition;

(b) The recommended social work service;

(c) Reasonable expectations of the benefits from the service;

(d) Possible foreseeable risks or negative consequences of the service;

(e) Possible alternative services; and

(f) The right to refuse a service.

(2) A social worker shall obtain written informed consent from the client or his legal guardian before audiotaping or videotaping the client.

(3) A social worker shall inform a client of the social worker's duties and obligations to a third party if the third party has referred the client and has a continuing interest in the client's participation in a service plan.

(4) A social worker who provides a collateral service to a family member of a client shall inform the family member about the social worker's duties and obligations to the primary client and the possible limitations of service to the family member.

(5) Informed consent required by this section shall be obtained in writing and shall expressly state the nature of the informed consent.

Section 5. Professional Integrity. (1) A social worker shall not provide a social work service if under the influence of alcohol, another mind-altering or mood-altering drug, or physical or psychological illness which impairs delivery of the services.

(2) A social worker shall not possess or distribute the board's examination material without authorization by the board.

(3) A social worker shall not interfere with a board investigation of a social worker through a willful means including:

- (a) Misrepresentation of a fact;
- (b) Undue influence of a witness;
- (c) A threat toward a person; or
- (d) Harassing communication toward a person.

(4) A social worker shall not verbally abuse or harass or physically threaten or assault a client, supervisee, employee, board member, or agent of the board.

Section 6. Responsibility to Students and Supervisees. (1) A social worker shall promote the educational and training interests of his students and supervisees.

(2) A social worker shall not engage in a social, business, or personal relationship with his student or supervisee if that relationship might:

- (a) Impair the social worker's professional judgment;
- (b) Incur the risk of exploitation of the student or supervisee; or
- (c) Otherwise violate a provision of this administrative regulation.

(3) If a social, business, or personal relationship cannot be avoided and if it does not impair the social worker's professional judgment, incur a risk of exploitation of the student or supervisee, or otherwise violate a provision of this administrative regulation, the social worker shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation does not occur.

(4) A social worker shall not obtain or engage the service of his student or supervisee in an activity except an activity that promotes a student's or supervisee's academic, educational, or training interest.

(5) A social worker shall not engage in sexual intimacy or contact with his student or supervisee.

(6) A social worker shall not enter into a professional-client relationship with his student or supervisee.

(7) A social worker shall not permit a student or supervisee to perform or to hold himself out as competent to perform a professional service beyond his level of training, experience, or competence.

Section 7. Advertising. (1) A social worker shall accurately present his services, education, professional credentials, qualifications, and license level to the public.

(2) A social worker shall not display a license issued by the board which has expired, or has been suspended or revoked.

(3) A social worker shall not use professional identification, including a business card, office sign, letterhead, telephone directory listing, or electronic listing, if it includes a statement that is false, fraudulent, misleading, or deceptive. A statement shall be deemed false, fraudulent, misleading or deceptive if it:

- (a) Contains a material misrepresentation of fact; or
- (b) Is intended to, or is likely to, create an unjustified expectation by the public or by a client.

Section 8. Payment for Services. (1) A social worker shall ensure that a client is informed of the fee and billing arrangement before rendering a service.

(2) A social worker shall not bill, or permit a client or third party to be billed, for a social work service if he knows that the service was:

- (a) Not provided;
 - (b) Improperly provided;
 - (c) Provided by another individual who is not identified on the billing statement;
- or
- (d) Unnecessary.

(3) A social worker shall not offer or accept payment or other compensation for referral of a client.

(4) A social worker shall not accept a form of remuneration for a service that involves the bartering of services.

(5) A social worker may take legal measures to collect a fee if:

- (a) A client does not pay the agreed fee for a rendered service; and
- (b) The social worker:

- 1. Gives reasonable advance notice to the client; and
- 2. Does not release more information about the client than is necessary to collect the fee.

Section 9. Confidentiality. (1) A social worker shall hold communications with a client in confidence and shall maintain a record of client information in a confidential manner.

(2) A social worker may disclose client information if:

- (a) The client has signed an authorization to release information;
- (b) The social worker is required by law to disclose essential information out of a duty to protect, warn, or report;
- (c) The social worker is a defendant in a civil or criminal action or is a respondent in a disciplinary process; or
- (d) A client has raised his mental condition as an element in a civil action and the court has ordered the release of the client's information.

(3) A social worker shall not disclose more client information than is necessary to meet the requirements of law.

(4) A social worker shall remove identifying information about the client from a training manual, professional writing, or classroom presentation.

(5) A social worker shall protect the confidentiality of a deceased client.

Section 10. Client Records. (1) A social worker shall not deceptively alter a client record.

(2) A social worker shall retain and secure a client record in a manner that maintains confidentiality and, if authorized by subsection (3) of this section, shall destroy a record in a manner that ensures confidentiality.

(3) A social worker shall maintain a client record for at least five (5) years from the date of termination of a service, or until a client reaches the age of twenty (20) years, whichever is longer.

Section 11. Dual Relationships. (1) A social worker shall not enter into a dual relationship with a client if the relationship might:

- (a) Impair the social worker's professional judgment;
- (b) Incur the risk of exploitation of the client; or
- (c) Otherwise violate a provision of this administrative regulation.

(2) If a dual relationship cannot be avoided and if it does not impair the social worker's professional judgment, incur a risk of exploitation of the client, or otherwise violate a provision of this administrative regulation, the social worker shall take appropriate professional precautions to ensure that judgment is not impaired and exploitation does not occur.

(3) A social worker shall not obtain or engage the service of a client if obtaining or engaging the service might:

- (a) Impair the social worker's professional judgment;
- (b) Incur the risk of exploitation of the client; or
- (c) Otherwise violate a provision of this administrative regulation.

(4) A social worker shall not engage in sexual intimacy or contact with a client or former client.

(5) A social worker shall not engage in a personal relationship or engage in sexual intimacy or contact with a member of a client's immediate family or an individual who is otherwise an intimate of the client.

(6) A social worker shall not use his professional relationship with a client or a former client to further his personal interest or personal gain.

(7) A social worker shall not enter into a professional-client relationship with a member of the social worker's immediate family, an intimate, or a personal friend unless this relationship does not pose a risk of harm to the client or to a member of the client's immediate family.

(8) A social worker shall be solely responsible for acting appropriately in regard to a relationship with a client or former client. A client or a former client's initiation of a personal, sexual, or business relationship shall not justify, excuse, or provide a defense for a violation of this section.

Section 12. Referral and Termination. (1) A social worker shall make a timely and appropriate referral of a client for a social work or other service if:

- (a) The social worker is unable to provide the work or service; or
- (b) The client's need exceeds the competency of the social worker.

(2) A social worker shall terminate a social work service if a client:

- (a) Has attained his stated goal or objective; or
- (b) Fails to benefit from the social work service.

(3) A social worker shall communicate the referral or the termination of a social work service to a client.

(4) A social worker shall not terminate a social work service or refer a client for the purpose of entering into a personal relationship with the client, including:

- (a) A sexual, romantic relationship;
- (b) A financial or business relationship; or
- (c) Other activity that might serve a personal, political, or religious interest of the social worker.

Section 13. Research. (1) A social worker shall obtain written informed consent from a client or a client's guardian if the client is a subject of a research project.

(2) A client's consent shall comply with the requirements of federal and state law regulating research with a human subject and shall include at least the following:

- (a) The scope and purpose of the research;
- (b) The procedures used to protect the client's confidentiality interests;
- (c) The client's right to participate or to refuse to participate without negative consequence to service delivery;
- (d) The possible risks and benefits of participation; and
- (e) The client's right to withdraw from participation without negative consequence to service delivery.

(3) A social worker shall protect the privacy and anonymity of a client who is a research subject and shall inform a client of a limitation on confidentiality that might arise from participation in the research project.

Section 14. Duty to Report. A social worker who has personal knowledge of a violation of the code of ethical conduct shall report to the board the name of the offending social worker and the nature of the ethical violation. The social worker shall not report the name of the client or client identifying information unless the client has given informed consent to him.

201 KAR 23:120. Equivalency standard.

RELATES TO: KRS 335.090

STATUTORY AUTHORITY: KRS Chapter 13A, 335.070

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation clarifies what the board will consider as equivalent education to that of a baccalaureate degree in social work or a social welfare program.

Section 1. In determining equivalency, the board will compare any program to that of a master's or bachelor's degree from a CSWE (council of social work educators) accredited school. In determining equivalency, the board will require that the educational content of a program shall include:

- (1) human behavior and the social environment;
- (2) social welfare policy and service;
- (3) research;
- (4) social work practice; and
- (5) educational practicum.

Section 2. (1) In human behavior and the social environment emphasis should be placed on the psychosocial situation. Six (6) hours of such courses should be at the upper division, or three (3) hours if such is built on a base of psychological and sociological courses.

(2) Social welfare policy and service courses shall include at least three (3) hours at the upper division social work or social welfare courses, built on courses in political science and economics. In the absence of political science and economics, there shall be at least six (6) hours in the social welfare policies and services area.

(3) Research courses shall be one three (3) hour social research course based on some kind of basic research.

(4) Social work practicum shall include six (6) hours of social work practice courses taught by an individual with an advanced degree in social work. In the absence of classes in lower division social work methods, three (3) additional hours shall be required in a lower division course, totaling nine (9) hours.

(5) Practicum shall be taught by an individual with an advanced degree in social work for at least 450 hours. Two (2) hours per week of supervision shall be required by an individual with an advanced degree in social work.

201 KAR 23:130. Definition of field service office.

RELATES TO: KRS 335.010

STATUTORY AUTHORITY: KRS Chapter 13A, 335.070

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation defines the term "field service office" in applying the exemption contained in KRS 335.010(5).

Section 1. For the purposes of KRS 335.010(5), the term "other philanthropic and nonprofit field service offices" shall mean a nonprofit subsidiary branch office of a national or regional social service agency which has been certified or accredited by such national or regional organization and which meets specific guidelines and standards of said organization, including those organizations whose branch office is directed by a board representative of and accountable to the local community, with responsibility shared by the national or regional accrediting organization.

Section 2. Without limiting other organizations that may qualify for a national or regional social service agency, the following are examples of those who do qualify:

- (1) Salvation Army;
- (2) Family Service Association of America;
- (3) Big Brothers/Big Sisters;
- (4) Catholic Social Services; and
- (5) American Red Cross.

201 KAR 23:140. Per diem compensation for board members.

RELATES TO: KRS 335.060

STATUTORY AUTHORITY: KRS 335.060, 335.070(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 335.060 provides that a board member shall receive per diem compensation, not to exceed \$125, to be established by administrative regulation promulgated by the board. This administrative regulation establishes this per diem compensation.

Section 1. The per diem compensation for a board member shall be \$100.

Other Statutes Pertinent to the Practice of Social Work

13B.050 Notice of administrative hearing.

(1) In any administrative hearing, the agency shall conduct the hearing as soon as practicable and shall give notice of the hearing to the parties not less than twenty (20) days in advance of the date set for the hearing, unless otherwise required by federal law. An agency shall make reasonable effort to schedule a hearing on a date that is convenient to the parties involved.

(2) The notice required by subsection (1) of this section shall be served on the parties by certified mail, return receipt requested, sent to the last known address of the parties, or by personal service, with the exception of notices of Personnel Board hearings and all board orders which may be served by first-class mail. Service by certified mail shall be complete upon the date on which the agency receives the return receipt or the returned notice.

(3) The notice required by this section shall be in plain language and shall include:

- (a) A statement of the date, time, place, and nature of the hearing;
- (b) The name, official title, and mailing address of the hearing officer;
- (c) The names, official titles, mailing addresses, and, if available, telephone numbers of all parties to the hearing, including the counsel or representative of the agency;
- (d) A statement of the factual basis for the agency action along with a statement of issues involved, in sufficient detail to give the parties reasonable opportunity to prepare evidence and argument;
- (e) A reference to the specific statutes and administrative regulations which relate to the issues involved and the procedure to be followed in the hearing;
- (f) A statement advising the person of his right to legal counsel;
- (g) A statement of the parties' right to examine, at least five (5) days prior to the hearing, a list of witnesses the parties expect to call at the hearing, any evidence to be used at the hearing and any exculpatory information in the agency's possession; and
- (h) A statement advising that any party who fails to attend or participate as required at any stage of the administrative hearing process may be held in default under this chapter.

(4) If an agency decides not to conduct an administrative hearing in response to a petition, the agency shall notify the petitioner of its decision in writing, with a brief statement of the agency's reasons and any administrative review available to the petitioner.

13B.080 Conduct of hearing.

(1) A hearing officer shall preside over the conduct of an administrative hearing and shall regulate the course of the proceedings in a manner which will promote the orderly and prompt conduct of the hearing. When a prehearing order has been issued, the hearing officer shall regulate the hearing in conformity with the prehearing order.

(2) The hearing officer, at appropriate stages of the proceedings, shall give all parties full opportunity to file pleadings, motions, objections, and offers of settlement. The hearing officer, at appropriate stages of the proceedings, may give all parties full opportunity to file briefs, proposed findings of fact and conclusions of law, and proposed recommended or final orders. The original of all filings shall be mailed to the agency, and copies of any filed item shall be served on all parties and the hearing officer by mail or any other means permitted by law or prescribed by agency administrative regulation. The agency shall when it is received stamp the time and date upon a document.

(3) The hearing officer may issue subpoenas and discovery orders when requested by a party or on his own volition. When a subpoena is disobeyed, any party may apply to the Circuit Court of the judicial circuit in which the administrative hearing is held for an order requiring obedience. Failure to comply with an order of the court shall be cause for punishment as a contempt of the court.

(4) To the extent necessary for the full disclosure of all relevant facts and issues, the hearing officer shall afford all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by limited grant of intervention or a prehearing order.

(5) Any party to an administrative hearing may participate in person or be represented by counsel. In informal proceedings, a party may be represented by other professionals if appropriate and if permitted by the agency by administrative regulation.

(6) If a party properly served under KRS 13B.050 fails to attend or participate in a prehearing conference, hearing, or other stage of the administrative hearing process, or fails to comply with the orders of a hearing officer, the hearing officer may adjourn the proceedings and issue a default order granting or denying relief as appropriate, or may conduct the proceedings without the participation of the defaulting party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings. A default order shall be considered a recommended order and shall be processed as provided in KRS 13B.110.

(7) A hearing officer may conduct all or part of an administrative hearing, or a prehearing conference, by telephone, television, or other electronic means, if each party to the hearing has an opportunity to hear, and, if technically feasible, to see the entire proceeding as it occurs, and if each party agrees.

(8) An administrative hearing shall be open to the public unless specifically closed pursuant to a provision of law. If an administrative hearing is conducted by telephone, television, or other electronic means, and is not closed, public access shall be satisfied by giving the public an opportunity, at reasonable times, to hear or inspect the agency's record.

13B.090 Findings of fact -- Evidence -- Recording of hearing -- Burdens of proof.

(1) In an administrative hearing, findings of fact shall be based exclusively on the evidence on the record. The hearing officer shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this Commonwealth. Hearsay evidence may be admissible, if it is the type of evidence that reasonable and prudent persons would rely on in their daily affairs, but it shall not be sufficient in itself to support an agency's findings of facts unless it would be admissible over objections in civil actions.

(2) All testimony shall be made under oath or affirmation. Any part of the evidence may be received in written form if doing so will expedite the hearing without

substantial prejudice to the interests of any party. The hearing officer may make a recommended order in an administrative hearing submitted in written form if the hearing officer determines there are no genuine issues of material fact in dispute and judgment is appropriate as a matter of law.

(3) Any party shall have the right to inspect, at least five (5) days prior to the hearing, a list of all witnesses every other party expects to call at the hearing, and the available documentary or tangible evidence relating to an administrative hearing either in person or by counsel. Copies of documentary evidence may be obtained upon the payment of a fee, except documents protected from disclosure by state or federal law. Nothing in this section shall be construed as giving a party the right to examine or copy the personal notes, observations, or conclusions of the agency staff, unless exculpatory in nature, nor shall it be construed as allowing access to the work product of counsel for the agency. Conditions for examining and copying agency records, fees to be charged, and other matters pertaining to access to these records shall be governed by KRS 61.870 to 61.884. To the extent required by due process, the hearing officer may order the inspection of any records excluded from the application of KRS 61.870 to 61.884 under KRS 61.878 that relate to an act, transaction, or event that is a subject of the hearing, and may order their inclusion in the record under seal.

(4) Objections to evidentiary offers may be made by any party and shall be noted in the record.

(5) The hearing officer may take official notice of facts which are not in dispute, or of generally-recognized technical or scientific facts within the agency's specialized knowledge. The hearing officer shall notify all parties, either before or during the hearing, or in preliminary reports or otherwise, of any facts so noticed and their source. All parties shall be given an opportunity to contest facts officially noticed.

(6) The agency shall cause all testimony, motions, and objections in a hearing to be accurately and completely recorded. Any person, upon request, may receive a copy of the recording or a copy of the transcript, if the hearing has been transcribed, at the discretion of the agency, unless the hearing is closed by law. The agency may prepare a transcript of a hearing or a portion of a hearing upon request but the party making the request shall be responsible for the transcription costs. The form of all requests and fees charged shall be consistent with KRS 61.870 to 61.884.

(7) In all administrative hearings, unless otherwise provided by statute or federal law, the party proposing the agency take action or grant a benefit has the burden to show the propriety of the agency action or entitlement to the benefit sought. The agency has the burden to show the propriety of a penalty imposed or the removal of a benefit previously granted. The party asserting an affirmative defense has the burden to establish that defense. The party with the burden of proof on any issue has the burden of going forward and the ultimate burden of persuasion as to that issue. The ultimate burden of persuasion in all administrative hearings is met by a preponderance of evidence in the record. Failure to meet the burden of proof is grounds for a recommended order from the hearing officer.

202A.400 Duty of qualified mental health professional to warn intended victim of patient's threat of violence.

(1) No monetary liability and no cause of action shall arise against any qualified mental health professional for failing to predict, warn of or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the qualified mental health professional an actual threat of physical violence against a clearly identified or reasonably identifiable victim, or unless the patient has

communicated to the qualified mental health professional an actual threat of some specific violent act.

(2) The duty to warn of or to take reasonable precautions to provide protection from violent behavior arises only under the limited circumstances specified in subsection

(1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the qualified mental health professional if reasonable efforts are made to communicate the threat to the victim, and to notify the police department closest to the patient's and the victim's residence of the threat of violence. When the patient has communicated to the qualified mental health professional an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precaution to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the patient under this chapter.

(3) No monetary liability and no cause of action shall arise against any qualified mental health professional for confidences disclosed to third parties in an effort to discharge a duty arising under subsection (1) of this section according to the provisions of subsection (2) of this section.

209.030 Rules and regulations -- Reports -- Cabinet actions.

(1) The secretary may, within his discretion, adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this chapter insofar as such action is reasonably calculated to serve the public interest. The secretary may take necessary action and may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect, inflicted or caused by a spouse.

(2) Any person, including, but not limited to, physician, law enforcement officer, nurse, social worker, cabinet personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(3) An oral or written report shall be made immediately to the cabinet upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: The name and address of the adult, or of any other person responsible for his care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(4) Upon receipt of the report, the cabinet shall take the following action as soon as practical:

- (a) Notify the appropriate law enforcement agency;
- (b) Initiate an investigation of the complaint; and
- (c) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(5) Any representative of the cabinet may enter any health facility or health service licensed by the cabinet at any reasonable time to carry out the cabinet's responsibilities under this chapter. Any representative of the cabinet actively involved in

the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to the mental and physical health records of the adult which are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this chapter.

(6) Any representative of the cabinet may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not consent to the investigation, a search warrant may issue upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the cabinet to proceed with the investigation.

(7) If a determination has been made that protective services are necessary when indicated by the investigation, the cabinet shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(8) In the event the adult elects to accept the protective services to be provided by the cabinet, the caretaker shall not interfere with the cabinet when rendering such services.

214.615 Required educational course on transmission, control, treatment, and prevention of AIDS.

(1) The cabinet shall require as a condition of granting a license under the chapters specified in KRS 311.450, 311.601, 312.175, 313.080, 313.305, 314.073, 315.065, 320.280, 327.050, 333.190, 335.080, 335.090, 335.100, and 335.150 that an applicant making initial application for licensure complete an educational course approved by the cabinet on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome. An applicant who has not taken a course at the time of licensure shall upon an affidavit showing good cause be allowed six (6) months to complete this requirement.

(2) The cabinet may promulgate administrative regulations to carry out the provisions of this section.

(3) The cabinet shall report to the General Assembly by March 1 of each year, as to the implementation and compliance with the requirements of this section.

620.030 Duty to report dependency, neglect or abuse.

(1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or the Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian or person exercising custodial control or supervision, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.

(2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected or abused, regardless of whether the person believed to have caused the dependency, neglect or abuse is a parent, guardian, person exercising custodial control or supervision or another person, or who has attended such child as a part of his professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Kentucky State Police or the Commonwealth's or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:

(a) The names and addresses of the child and his parents or other persons exercising custodial control or supervision;

(b) The child's age;

(c) The nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his siblings;

(d) The name and address of the person allegedly responsible for the abuse or neglect; and

(e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

(3) The cabinet upon request shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

645.270 Duty of qualified mental health professional to warn intended victim of patient's threat of violence.

(1) No monetary liability and no cause of action shall arise against any qualified mental health professional for failing to predict, warn or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the qualified mental health professional or person serving in a counselor role an actual threat of physical violence against a clearly identified or reasonably identified victim, or unless the patient has communicated to the qualified mental health professional or other person serving in a counselor role an actual threat of some specific violent act.

(2) The duty to warn or to take reasonable precautions to provide protection from violent behavior arises only under limited circumstances specified in subsection (1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the qualified mental health professional or person serving in a counselor role if reasonable efforts are made to communicate the threat to the victim and to notify the law enforcement office closest to the patient's and the victim's residence of the threat of violence. If the patient has communicated to the qualified mental health professional or person serving in a counselor role an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precautions to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the child under KRS Chapter 645.

(3) No monetary liability and no cause of action shall arise against any qualified mental health professional or person serving in a counselor role for confidences disclosed to third parties in an effort to discharge a duty arising under this section.

Rule 507 Psychotherapist-patient privilege.

(a) Definitions. As used in this rule:

(1) A "patient" is a person who, for the purpose of securing diagnosis or treatment of his or her mental condition, consults a psychotherapist.

(2) A "psychotherapist" is:

(A) A person licensed by the state of Kentucky, or by the laws of another state, to practice medicine, or reasonably believed by the patient to be licensed to practice medicine, while engaged in the diagnosis or treatment of a mental condition;

(B) A person licensed or certified by the state of Kentucky, or by the laws of another state, as a psychologist, or a person reasonably believed by the patient to be a licensed or certified psychologist;

(C) A licensed clinical social worker, licensed by the Kentucky Board of Social Work; or

(D) A person licensed as a registered nurse or advanced registered nurse practitioner by the board of nursing and who practices psychiatric or mental health nursing.

(3) A communication is "confidential" if not intended to be disclosed to third persons other than those present to further the interest of the patient in the consultation, examination, or interview, or persons reasonably necessary for the transmission of the communication, or persons who are present during the communication at the direction of the psychotherapist, including members of the patient's family.

(4) "Authorized representative" means a person empowered by the patient to assert the privilege granted by this rule and, until given permission by the patient to make disclosure, any person whose communications are made privileged by this rule.

(b) General rule of privilege. A patient, or the patient's authorized representative, has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications, made for the purpose of diagnosis or treatment of the patient's mental condition, between the patient, the patient's psychotherapist, or persons who are participating in the diagnosis or treatment under the direction of the psychotherapist, including members of the patient's family.

(c) Exceptions. There is no privilege under this rule for any relevant communications under this rule:

(1) In proceedings to hospitalize the patient for mental illness, if the psychotherapist in the course of diagnosis or treatment has determined that the patient is in need of hospitalization;

(2) If a judge finds that a patient, after having been informed that the communications would not be privileged, has made communications to a psychotherapist in the course of an examination ordered by the court, provided that such communications shall be admissible only on issues involving the patient's mental condition; or

(3) If the patient is asserting that patient's mental condition as an element of a claim or defense, or, after the patient's death, in any proceeding in which any party relies upon the condition as an element of a claim or defense.